

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert Madsen on 25 Mar 2010.

The application has been amended as follows:

Amendment to the Claims

- Claim 35 is amended at the page numbered 6 at line 11:
Replace "multiplication element with branchings" with "multiplication element with several branchings"

DETAILED ACTION

This Office Action is responsive to Applicant's Amendment and Remarks, filed 14 Dec 2009, in which claim 35 is amended to change the scope and breadth of the claim, claims 36, 37, 39, 41 and 43 are amended to depend from claim 35 and claims 21-34, 38, 40 and 42 are canceled.

This application is the national stage entry of PCT/FR04/02998, filed 24 Nov 2004; and claims benefit of foreign priority document FRANCE 0323873, filed 26 Nov 2003. An English language translation of this foreign priority document is of record.

Claims 35-37, 39, 41 and 43 are pending and allowed herein.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

Objections Withdrawn

Applicant's Amendment, filed 14 Dec 2009, with respect to objections to claims 35-37, 39, 41 and 43 as depending from and incorporating subject matter of a withdrawn claim has been fully considered and is persuasive, as amended claim 35 does not depend from a withdrawn claim and claims 36, 37, 39, 41 and 43 are amended to depend from claim 35.

This objection has been **withdrawn**.

Rejections Withdrawn

Applicant's Amendment, filed 14 Dec 2009, with respect to claims 35-37, 39, 41 and 43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite has been fully considered and is persuasive, as amended claim 35 does not recite the unclear connectivity of a group Y, "amino acid derivative", or "or also a fluorescent or radioactive visualization or detection probe".

This rejection has been **withdrawn**.

The closest prior art is Ortiz-Mellet et al. (Chem. Eur. J. 2002, 8(9), p1982-1990, of record) in view of Kotter et al. (J. Chem. Soc., Perkin Trans. 1, 1998, p2193-2200, of record).

Applicant's Remarks, filed 02 July 2009, and the declaration of Jacques Defaye (inventor), submitted by Applicants on 02 July 2009 under 37 CFR § 1.132 with respect to claims 35-37 rejected under 35 U.S.C. 103(a) as being unpatentable over Ortiz-Mellet et al. (Chem. Eur. J. 2002, 8(9), p1982-1990, of record) in view of Kotter et al. (J. Chem. Soc., Perkin Trans. 1, 1998, p2193-2200, of record) has been fully considered and is persuasive that the teaching of Ortiz-Mellet et al. provides guidance for the linker arms length but that this the spacer arm is separate from the branching element, that the teaching of Kotter et al. to link a thiourea function using tris(2-aminoethyl)amine discourages the use, and that both Ortiz-Mellet et al. and Kotter et al. suggest thiourea linkers are not the best linkers, plus the teaching that Kotter et al. is to a trivalent branching element having C3 symmetry and neither Ortiz-Mellet et al. nor Kotter et al.

Art Unit: 1623

describe how to selectively functionalize the branching element with a reasonable expectation of success is persuasive as the combination of all these factors rebut the *prima facie* case of obviousness due to a lack of guidance to combine these elements with a reasonable expectation of success.

Moser et al. (US Patent 6,642,214, issued 4 Nov 2003, of record) teaches a cyclodextrin oligomer connected through a spacer for the encapsulation of an active pharmaceutical substance (abstract and figure 6). Moser teaches the spacer is a rigid structural element (column 1, lines 60-70) and discloses preferred embodiments di- β -CD(--NH--(C.sub.8 H.sub.16)--NH--); di- β -CD(terephthaldiamide); di- β -CD(--NHCO(trimesyl)CONH--); di- β -CD(--NH--(C.sub.3 H.sub.6)--NHCO--(C.sub.3 H.sub.6)--CONH--(C.sub.3 H.sub.6)--NH--); di- β -CD(--NH--(C.sub.2 H.sub.4)--NHCO(trimesyl)CONH--(C.sub.2 H.sub.4)--NH--); di- β -CD(--NH--(C.sub.2 H.sub.4)--SH-[6- α -CD-6]--SH--(C.sub.2 H.sub.4)--NH--); di- β -CD(--NH--(C.sub.4 H.sub.8)--NHCO--(C.sub.3 H.sub.6)--COHN--(C.sub.4 H.sub.8)--NH--); di-beta-CD(--NH--(C.sub.2 H.sub.4)--SH-[6-(β,γ)-CD-6]-SH--(C.sub.2 H.sub.4)--NH--); or di- β -CD(--NH--(C.sub.3 H.sub.6)--NHCO(trimesyl)COHN--(C.sub.3 H.sub.6)--NH--) (column 2, lines 10-30).

Moser et al. does not teach a cyclodextrin oligomer according to instant formula (I).

The instant invention would not have been obvious to one of ordinary skill in the art at the time of the invention because Moser et al. teaches the spacer to be a rigid structural element of aliphatic units or aromatic units. (column 4, lines 55-70). Therefore

Art Unit: 1623

one of one of ordinary skill in the art would not be motivated to modify Moser et al. to arrive at the cyclodextrin oligomer according to instant formula (I).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Claims 35-37, 39, 41 and 43 are in condition for allowance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan S. Lau whose telephone number is 571-270-3531. The examiner can normally be reached on Monday - Thursday, 9 am - 4 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia Anna Jiang can be reached on 571-272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1623

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Art Unit 1623